2 Trial Court Report

Note: Terms appearing in CAPS are defined in the trial court glossaries in the Appendix. Generally, CAPS are used upon first reference by court level (municipal courts and superior courts).

Photo: Kiri Torre.

Alpine County Courthouse.

There are two levels of trial courts in California. The superior courts have trial jurisdiction over all FELONY cases and all general civil disputes involving more than $25,000. These courts also serve as PROBATE, juvenile, and family courts and can hear appeals of municipal court decisions. There are 58 superior courts in California—one in each county.

The municipal courts are the trial courts below the superior court level. These courts handle MISDEMEANOR and INFRACTION cases as well as CIVIL ACTIONS involving claims for $25,000 or less, including SMALL CLAIMS cases that do not exceed $5,000. Municipal courts also play a role in felony cases by presiding over ARRAIGNMENTS as well as PRELIMINARY HEARINGS in such cases to determine whether there is reasonable and probable cause to hold a DEFENDANT for further proceedings in superior court.

State legislation authorizes the county boards of supervisors to divide counties into districts. As of April 1, 1998, there were 109 municipal courts in California.

Overall, the mix of cases has been changing in California courts as it has nationwide; that is, the proportion of criminal cases to civil cases has been increasing. In fiscal year 1995–96, the number of resource-intensive criminal jury trials in superior courts continued to climb, which many courts attribute to the "THREE STRIKES" LAW. This law continued to have a noticeable impact on court workload for criminal cases in many trial courts. Yet despite concerns about resources diverted to handle three-strike cases, superior courts continued to improve their case-processing time in civil cases. In addition, significant progress was made

in trial courts' coordination efforts (i.e., the sharing of resources between superior and municipal courts to help reduce court costs and improve court efficiency).

Effective January 1, 1997, the trial courts received some badly needed relief with the Legislature's creation of 21 new judgeships *(see sidebar, this page)*. In the Fall of 1997, the enactment of the historic trial court funding restructuring legislation *(see Special Trial Court Funding Report)* provided a stable, long-term funding solution for the trial courts at long last.

New Judgeships

The trial courts received some long-awaited relief in 1996 with the Legislature's creation of 21 new judgeships. This was accomplished through passage of Assembly Bill 1818 (Baca) (Stats. 1997, ch. 262), which went into effect January 1, 1997. (Five new appellate court judgeships were also authorized by this bill.) These were the first new judgeships authorized in nearly a decade. As of April 1, 1998, there were 1,480 authorized trial court judgeships in the California judicial system (including the 21 new judgeships).

In 1997, as part of the package on trial court funding issues (Assembly Bill 233 and other related bills), the Legislature passed and the Governor signed Assembly Bill 420 (Stats. 1997, ch. 420), which authorized the creation of another 40 new trial court judgeships. These positions will be allocated to counties pursuant to a study and recommendations from the Judicial Council and may be filled subject to future appropriation.

The Judicial Council is interested in creating more judgeships to serve the public. The council's Court Profiles Advisory Committee was established to determine judicial needs in the trial courts. The committee was instrumental in helping to inform legislators about the new judgeship needs methodology and in gaining support for the two omnibus judgeship bills that were passed in 1996—AB 1818 and Senate Bill 1393 (Thompson) (Stats. 1996, ch. 162). In fact, AB 1818 (authorizing the new trial court judgeships) was based on the advisory committee's judgeship needs ranking.

Trial Court Workload

Trial court filings constitute most of the filings in our state courts. In fiscal year 1995–96, trial courts accounted for 99.6 percent of total filings, while appellate courts *(see Chapter 3)* accounted for the remaining 0.3 percent of filings.

In 1995–96, there were approximately 9.04 million case filings in the superior and municipal courts out of a total of approximately 9.08 million filings in all the state courts. While this represents only a 2 percent increase in total filings from the previous year, it is important to recognize that trial court filings are still 33 percent higher than they were two decades ago (i.e., fiscal year 1976–77).

The superior courts reported a record 1.19 million cases in 1995–96, representing a 5 percent increase from the 1.13 million filings the previous year. This is part of a 31 percent increase in a decade (since fiscal year 1986–87), and a 67 percent increase in the past 20 years (since fiscal year 1976–77). Excluding TRAFFIC INFRACTIONS and PARKING VIOLATIONS, the municipal courts reported 2.91 million filings in 1995–96, a 3 percent decrease from the 3.01 million cases filed during the prior fiscal year.

Each case filed places demands on court time, space, and staff. Moreover, in cases involving families and children—the workload areas showing the largest increases during the 1995–96 fiscal year—the increasing number of self-represented (pro per) litigants presents a compounding problem that affects court workload. The work for judges and court staff significantly increases when there are pro per

litigants because these individuals need extra assistance to navigate through unfamiliar and often intimidating legal forms and court procedures. In addition, many people involved in family relations disputes speak little or no English, presenting further challenges for the judicial system.

Courts are involved primarily with resolving disputes between parties. However, courts are spending more and more time and resources on other functions; much of the work done by judges and court staff takes place outside the courtroom. Before each hearing, judges spend many hours reading and analyzing case files, medical and police reports, BRIEFS, and other documents. A great deal of staff time and effort is expended on work such as authorizing arrests, issuing TEMPORARY RESTRAINING ORDERS, granting warrants for searches and seizures, making and keeping records, processing uncontested divorces, probating uncontested wills, and handling petitions for name changes.

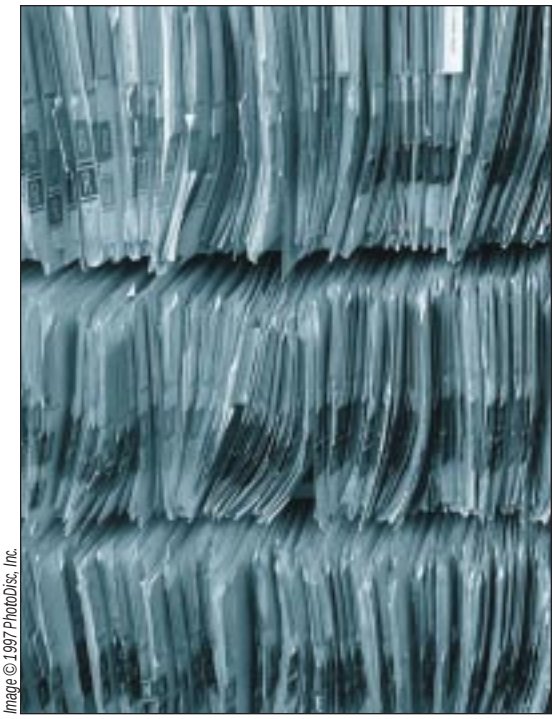


Figure 2.1

Total Trial Court Filings (Excluding Traffic Infractions and Parking)

Fiscal Years 1976–77 through 1995–96

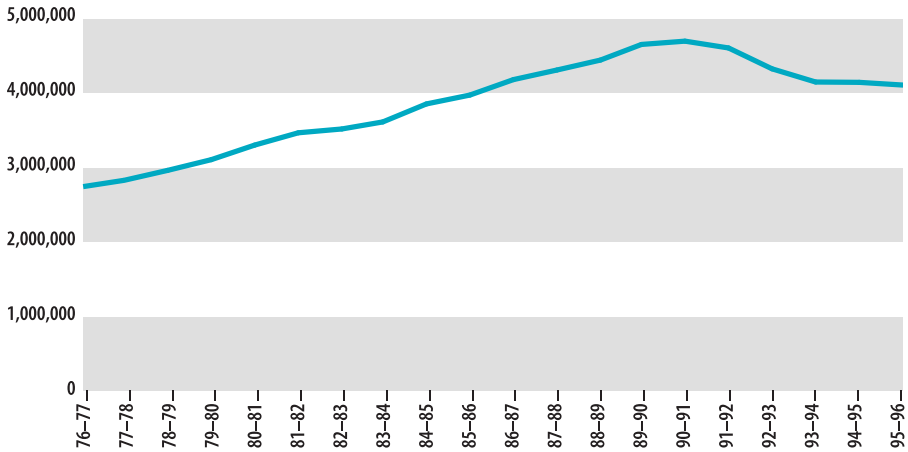
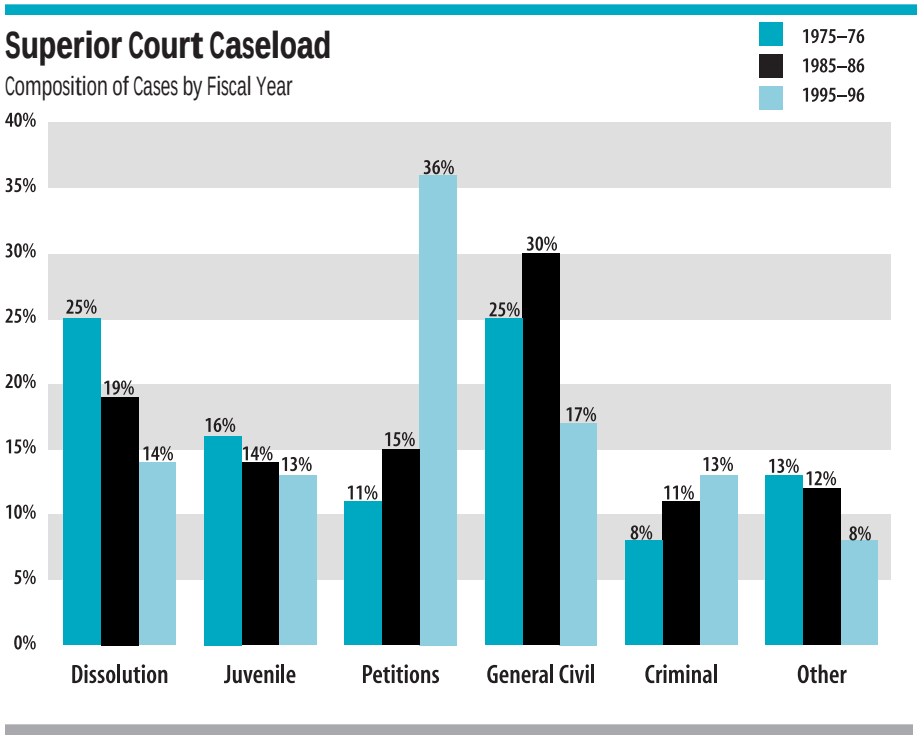


Figure 2.2

Superior Court Caseload

Composition of Cases by Fiscal Year



Criminal Cases

Under the California Constitution, criminal cases have priority in the justice system over civil matters. There are three basic categories of criminal offenses:

1. Felonies are crimes of a more serious nature than misdemeanors and are punishable by imprisonment in a state prison or by death. Felony cases are filed in the municipal courts, where preliminary hearings are conducted to determine whether the evidence is sufficient to hold the defendant to answer in superior court.

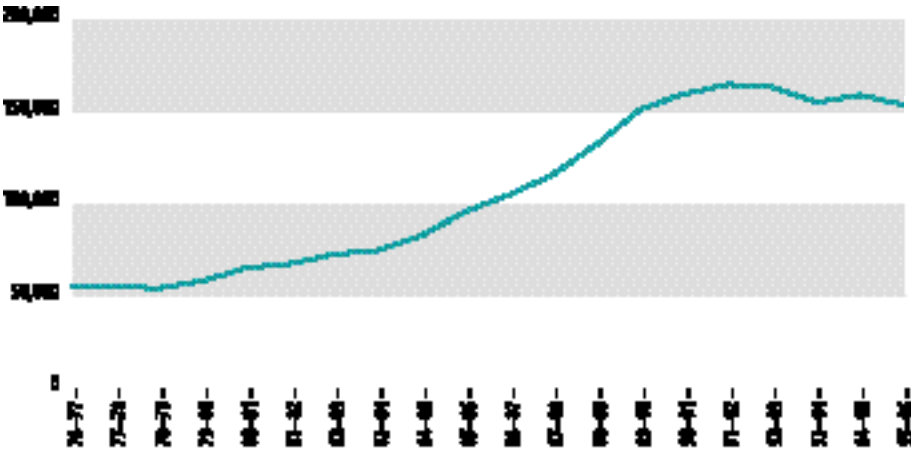
2. Misdemeanors are lesser offenses than felonies and are generally punishable by fine or imprisonment in a city or county jail rather than a state penitentiary. For statistical reporting purposes, the Judicial Council's staff agency, the Administrative Office of the Courts, classifies misdemeanors in four categories (A through D) *(see Municipal Courts Glossary)*.

3. Infractions are violations of state statutes or local city or county ordinances that are specified as infractions and punishable only by fine.

Figure 2.3

Superior Court Felony Filings

Fiscal Years 1976–77 through 1995–96



SERIOUS CRIME

Mirroring the rest of the nation, the crime rate in California continues to drop. The felony crime rate in California was down 12 percent in 1996 from the previous calendar year, reaching the lowest level since 1985 and representing the largest one-year decrease on record.

Indeed, it appears as though the declining rate of violent crime in California is outpacing the national drop in violent crime: From 1993 to 1995 (the latest date for which comparative statistics are available), California's violent crime rate decreased 9 percent; the national rate (excluding California) decreased 5 percent.

The 1996 felony crime rate in California was 22 percent lower than in 1993, which was the last full year before implementation of the "three strikes" law *(see page 24)*. Proponents of the "three strikes" law attribute California's continuing decline in crime over the past few years to this 1994 law, which calls for a 25-years-to-life sentence for any felony conviction where there are two prior convictions for serious or violent felonies. Many critics of the "three strikes" law attribute reduced crime rates to other factors, including improved economic conditions and the declining percentage in the population of the age groups most prone to committing crimes.

FELONY FILINGS DOWN

Consistent with the declining rate of crime, both superior court criminal filings and municipal court felony filings decreased slightly in fiscal year 1995–96: criminal filings in the superior courts decreased by 3 percent to 153,394 cases, and felony filings in the municipal courts decreased by 5 percent to 245,172 cases. However, over the past two decades criminal caseloads in the trial courts have risen dramatically. In superior courts, criminal filings have risen 46 percent in the past decade and 181 percent in the past 20 years; in municipal courts, felony filings have risen 24 percent in the past decade and 138 percent in the past 20 years. Moreover,

felony cases are complex and consume substantial amounts of court resources and judge time.

In 1995–96, felony filings made up 3 percent of the total filings in the municipal courts and 13 percent of total filings in the superior courts. During this period, municipal courts disposed of 229,016 felony cases, a 1 percent decrease from the prior year; superior courts disposed of 154,063 criminal matters, a 2 percent increase over fiscal year 1994–95.

CRIMINAL JURY TRIALS SOAR

In superior courts, the number of resource-intensive criminal jury trials continued to climb. In fiscal year 1995–96, criminal jury trials increased 4 percent—to 6,397 from 6,175 the prior year. In 1995–96, the trial rate was 4.15 jury trials per 100 criminal DISPOSITIONS—which is 10 percent higher than the trial rate in 1992–93 (3.79 trials per 100 dispositions). This is significant because 1992–93 was the fiscal year prior to enactment of the "three strikes" law *(see next page)*.

Many courts attribute the rise in criminal jury trials during recent years to the "three strikes" law. More felony cases are going to trial statewide since the enactment of this law—largely because defendants facing dramatically longer sentences are more likely to go to trial than to plead guilty.

Figure 2.4

Municipal Court Felony Filings

Fiscal Years 1976–77 through 1995–96

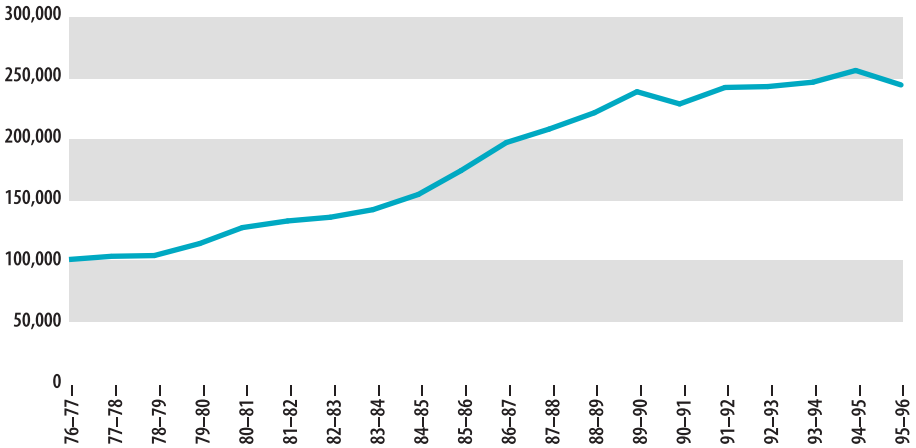
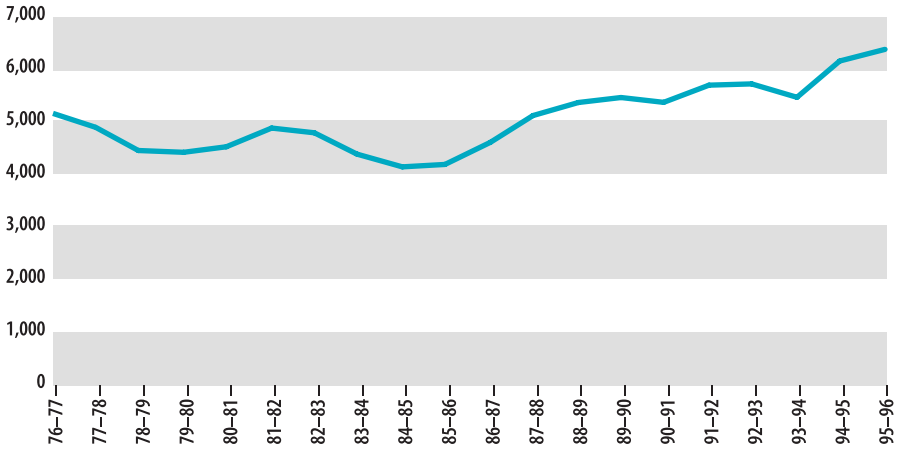


Figure 2.5

Superior Court Criminal Jury Trials

Fiscal Years 1976–77 through 1995–96



"THREE STRIKES" LAW

The "three strikes" law, which took effect in March 1994, has had a noticeable impact on workload in the trial courts. This law doubles the base sentence for any new felony conviction if a defendant already has one prior serious or violent felony conviction. This law also imposes a minimum sentence of 25-years-to-life in state prison for any felony conviction when a defendant has two or more prior serious or violent felony convictions. In addition, defendants convicted under this law are required to serve 80 percent of their time before release (instead of 50 percent as required for most other convicted offenders).

AOC "three strikes" survey

In March 1996, the Administrative Office of the Courts (AOC) conducted its second survey to measure the impact of "three strikes" on the workload of California's trial courts. (The first survey was conducted in August 1995 and covered filing and disposition data from January through June 1995.) The second survey looked at filing and disposition data from July through December 1995. The results of the second survey, highlighted below, are consistent with the results of the first one; however, the second survey provides a more complete picture because of the excellent response rate. Moreover, the second survey covered data representing an additional six months of court experience with the "three strikes" law.

The second survey does not reflect the impact from the 1996 California Supreme Court decision in *People v. Superior Court (Romero) (*discussed below). This survey also does not reflect the impact of 1997 court decisions regarding the use of juvenile convictions as strikes.

In the *Romero* case, the Supreme Court held that judges have discretion to strike prior felony convictions in cases brought under the "three strikes" law; that is, a judge can impose a lesser term if the judge determines that, in the interests of justice, a term under this law is excessive based on the defendant's crime and record.

Survey findings

- **Increased judicial workload:** Fifteen superior courts (28 percent of responding courts) estimated that their judicial workload for criminal cases increased more than 10 percent as a result of the "three strikes" law. These courts accounted for 58 percent of California's felony filings in 1994–95. Eighteen municipal courts (39 percent of responding courts) also estimated a greater than 10 percent increase in their judicial workload for felony cases.
- **Uneven impact:** It appears that the "three strikes" law has had an uneven impact on California trial courts. Some courts reported substantial increases in workload while others reported little or no impact.

Three Strikes Relief Team Program

A special team of retired judges has been formed to assist trial courts that are swamped with three-strike cases. The 1996–97 State Budget Act provided $3.5 million for the Three Strikes Relief Team program, which began functioning in January 1997.

During the first six months of 1997, nine counties participated in the program. Since July 1997, courts are participating on an "as needed" basis. In the six-month period from January through June 1997, there were, on average, 20 judges participating in the program, providing a total of approximately 1,800 trial days to the calendar. During this time period, the relief team of judges disposed of approximately 613 cases.

California's larger superior courts, especially those in the Central Valley and those with a high proportion of second- and third-strike filings, tended to report larger workload increases than other superior courts. Municipal courts located in Los Angeles County or those with high proportions of second- or third-strike filings reported larger workload increases as a result of the law than did other municipal courts. In addition, the varying impact from county to county probably reflects different prosecutorial policies concerning prior offenses.

- **Trial and preliminary hearing rates:** Superior courts reported higher trial rates for strike cases than for nonstrike cases. The median trial rate was 4 percent for nonstrike cases, 9 percent for second-strike cases, and 41 percent for third-strike cases. These statistics indicate that a third-strike case typically requires substantially more judicial resources than a second-strike case, and that a second-strike case typically requires substantially more judicial resources than a nonstrike case.

Municipal courts reported higher preliminary hearing rates for strike cases than for nonstrike cases. The median preliminary hearing rate was 37 percent for nonstrike cases, 67 percent for second-strike cases, and 79 percent for third-strike cases.

- **Administrative workload:** A noticeable increase in administrative workload attributable to "three strikes" was reported by 26 superior courts (45 percent of responding courts). This additional administrative work involved preparation and certification of records of conviction, collection and assessment of statistical data to measure and manage second- and third-strike cases, and preparation of more trial records for appeals. For instance, the Riverside County Consolidated Superior and Municipal Courts reported having to add two full-time employees to prepare and certify records of conviction because of "three strikes"; San Joaquin County Superior Court reported adding one new employee for this function.

- **Judicial resources shifted:** Half of the responding superior courts reported at least a 13 percent increase in the proportion of judicial resources allocated to criminal cases from February 1994 to February 1996. There was a median decrease of 8 percent of judicial resources allocated to general civil cases. This indicates that judicial resources—judges, staff, and courtrooms—were shifted from civil cases to the criminal arena. Seventeen of the counties surveyed attributed an increasing backlog of civil cases to this redirection of judicial resources to handle second- and third-strike cases.

Upcoming AOC report

The AOC will release a report in 1998 with the results of its new "three strikes" study. This report will provide a more comprehensive analysis of the impact of the "three strikes" law on California trial courts. The second survey (discussed above) was one component of this larger, upcoming study, which analyzes data from the year prior to enactment of "three strikes" through fiscal year 1995–96.

Photo: Kin Torre.

Plumas County Courthouse.

According to this study, the "three strikes" law created more work for the trial courts. Most courts, including large and small jurisdictions, experienced increased numbers of felony trials and higher trial rates since the "three strikes" law took effect. There were 21 percent more felony jury trials statewide in 1995–96 than in 1992–93. In counties for which detailed, case-level data was analyzed, the increased number of trials can be directly attributed to the "three strikes" law.

DRUG-RELATED CRIME

The federal Drug Enforcement Administration reports that as of May 1996, one-third of all violent crime in the nation was drug related. In California, of the 448,349 felony arrests in 1996, 31 percent (139,772) were illicit-drug-related arrests. In 1996, illicit-drug-related arrests in California decreased slightly (1 percent) from the prior year; however, our state still has one of the highest levels of drug trafficking, drug usage (including methamphetamines), and drug arrests in the nation. According to the California Department of Justice's Criminal Justice Statistics Center, there were a total of 616,019 (146,136 felony and 469,883 misdemeanor) adult and juvenile arrests reported for drug- and alcohol-related offenses in 1996.

Multiple ports of entry, internal manufacture of methamphetamines, as well as the high availability and inexpensive cost of drugs contribute to California's high rate of drug crime and the deluge of drug cases that continue to overwhelm our state's criminal justice system.

Drug courts

"Drug treatment courts" were developed in the early 1990s as an alternative to traditional criminal justice prosecution for drug-related offenses. These courts combine the close supervision of participants within the judicial process with the resources available through alcohol- and drug-treatment services.

The two primary goals of these programs are to reduce recidivism of drug-related offenses (i.e., relapse of criminal behavior) and to create options within the criminal justice system to tailor effective and appropriate responses to offenders with drug problems. Drug court programs require participants to begin treatment immediately; undergo intensive judicial supervision on a continuing basis; provide regular, verifiable reports of their participation in the program; and face progressive sanctions if they fail along the way.

According to the most recent estimates by the U.S. Department of Justice's Bureau of Justice

Assistance Drug Court Clearinghouse at The American University, drug court programs operate in 48 states (including Native American tribal courts) and in Washington, D.C., and in one federal district. Clearinghouse statistics indicate that 325 programs have been implemented or are being planned. The estimated number of individuals who have enrolled in drug court programs is 45,000, with a participation and retention rate of 70 percent. In addition, estimates are reported that at least 325 drug-free babies have been born to drug court participants.

Since 1995, 11 states have enacted or have legislation pending that deals with the establishment or funding of drug courts. In California, over 30 counties have drug courts. In addition, the Judicial Council's Administrative Office of the Courts (AOC) estimates that over 60 drug courts are in existence, being planned, or under discussion in our state.

The rapid proliferation and success of drug courts in California and nationwide has resulted in both federal and state funding. In 1996, initial federal funding of $500,000 was made available to drug courts in California through the Edward Byrne Fund to the California Office of Criminal Justice Planning (OCJP). The AOC was selected to administer the grant. Chief Justice George appointed the Oversight Committee for the California Drug Court Project, which developed review criteria and made recommendations to the Judicial Council regarding the funding applications of specific drug courts.

In November 1996, the Judicial Council adopted the oversight committee's recommendations and awarded mini-grants to 26 drug courts. Funds were made available to the courts in 1997. At its August 1997 meeting, the Judicial Council approved the recommendations of the oversight committee to distribute $1 million in anticipated OCJP funds for 25 mini-grants to drug courts in fiscal year 1997–98. This second-year grant cycle will run through December 31, 1998.

The goal of the California Drug Court Project is to encourage the development of drug courts in California through funding and professional support. By providing financial and technical support, the project aims to encourage development of new drug courts; enhance existing drug courts by enabling the expansion of current programs to specific populations, such as youth; and encourage drug courts to use innovative approaches, such as new treatments and methods. The California Drug Court Project is also developing and promoting consistent and professional standards for drug courts and monitors the progress of courts that have received mini-grants to determine effective drug court strategies.

Drug Court Success and Benefits

Drug court programs are considerably more effective than the traditional response of criminal prosecution. This conclusion was made by the U.S. Department of Justice's Bureau of Justice Assistance Drug Court Clearinghouse at The American University, which surveyed 20 drug court programs that have been in effect for at least one year. The results of this 1996 survey are contained in *Drug Courts: An Overview of Operational Characteristics and Implementation Issues.* Among the findings are the following:

- The rate of recidivism for participants in drug court programs has been significantly reduced.
- A significant decrease in drug use has been observed among drug court participants while involved in the program.
- There have been a significant number of drug-free babies born to women enrolled in drug court programs—an unanticipated beneficial effect.
- Many programs are now expanding their targeted population based on the success of their initial experience.
- Prosecutors and law enforcement officials have demonstrated significant support for drug court programs and, in a number of jurisdictions, have contributed asset-forfeiture funds to augment available treatment resources.
- Drug court programs are also extremely cost-effective—average treatment costs range from $900 to $1,600 per participant, compared with an average cost of $5,000 per defendant for a minimal period of incarceration.

TRAFFIC FILINGS

TRAFFIC INFRACTION filings (for violations of speed laws and all other moving violations; PARKING VIOLATIONS are not included) occur exclusively in the municipal courts and constitute the bulk of filings in those courts. In fiscal year 1995–96, traffic infractions accounted for 63 percent of municipal court filings, up from 61 percent the prior year. (Indeed, traffic infraction filings in 1995–96 made up 55 percent of all nonparking filings in the trial courts—municipal and superior courts.)

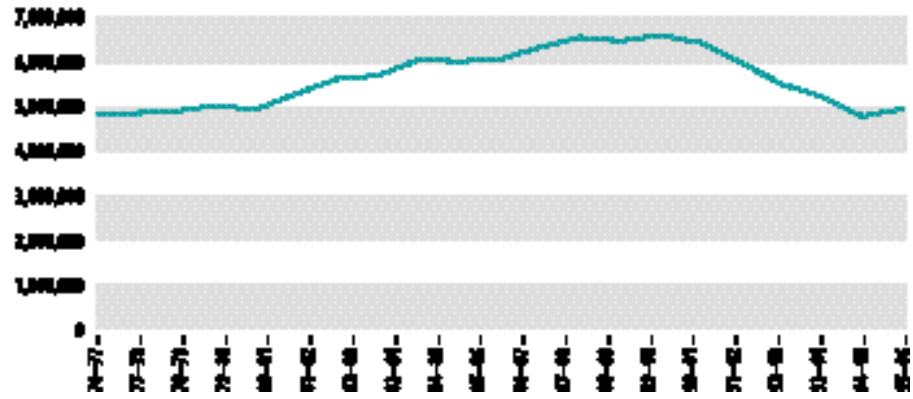
While traffic cases often require a small amount of judge time, they demand substantial time from court staff. There were 4.94 million traffic infraction filings in fiscal year 1995–96, representing a 4 percent increase over the previous year and the first increase in this category in six years (i.e., since the 1989–90 fiscal year).

Based on traffic citation statistics provided by the California Highway Patrol (CHP) for calendar years 1995 and 1996, it is estimated that slightly less than half of the citations for traffic infractions in fiscal year 1995–96 were issued by the CHP, with the remaining portion of the traffic citations issued by local police departments throughout the state.

Figure 2.6

Traffic Infraction Filings

Fiscal Years 1976–77 through 1995–96



Spokesmen for two major metropolitan police departments provided statistics on traffic (nonparking) tickets issued and the possible reasons for the increase in traffic infractions.

The Los Angeles Police Department (LAPD) reports that traffic citations have been going up in recent years. Speeding tickets, a major component of traffic citations have also shown increases.

Traffic Citations Issued by the Los Angeles Police Department

Year	*Total*	*Speeding*
1993	406,293	56,738
1994	454,955	65,558
1995	471,646	80,249
1996	484,685	95,347

According to a spokesman for the LAPD, these increases are not due to population growth; the population of the city of Los Angeles only grew by 11,900 people from 1993 to 1996. Instead, the department's increased traffic citations have resulted from the LAPD's conscientious effort to enforce traffic laws, including speeding, to reduce traffic accidents. This effort was mounted in response to a *Los Angeles Times* public safety survey.

A spokesman for the San Francisco Police Department believes that the increase in citations for traffic infractions is an indirect result of the decreasing crime rate in the state *(see page 22)*. For police in large urban areas, writing tickets is a secondary enforcement activity; their priority is to respond to calls for service on the streets. Since crime has declined, there is a corresponding decrease in calls for service and, thus, officers are devoting more time to writing tickets for traffic infractions.

The CHP reports that traffic citations statewide have been decreasing steadily over the past few years. There was a significant drop in speeding tickets from 1995 to 1996, which the CHP says is

directly related to the new maximum speed law. Unlike speeding tickets issued by the police departments, which are primarily for infractions committed on surface streets, the CHP issues tickets mainly on California's highways. The CHP theorizes that most people whose comfort driving speed was 65 to 70 miles per hour before the change in the speed limit are now driving legally; they did not increase their speed further under the new law.

There are two categories of TRAFFIC MISDEMEANORS: Group C and Group D. GROUP C MISDEMEANOR filings (Vehicle Code violations involving hit-and-run with property damage, reckless driving causing injury, and DUI) rose 6 percent in fiscal year 1995–96—to 212,809 from 200,845 in the previous year. This was the first increase in this category in five years.

This does not necessarily mean that there have been more crimes in this category; rather, there have been more citations issued. Police may be devoting more resources to these cases as the result of changes in local funding to police agencies. Some, for example, have established special police units that patrol on holidays (during "maximum enforcement periods") and in the early morning hours specifically looking for DUIs. There has also been increased use of mobile blood alcohol devices for DUI arrests. This equipment ("preliminary alcohol screening" or "PAS" device) is now kept in patrol cars, and courts have ruled that the results of these tests are admissible as evidence.

GROUP D MISDEMEANOR filings (all other traffic misdemeanors not included in Group C; for example, driving with a suspended license) continued to decrease. In fiscal year 1995–96, there was a 14 percent drop in these filings from 1994–95, and there had been an 8 percent drop in 1994–95 from the prior year.

NONTRAFFIC FILINGS

Overall, nontraffic misdemeanor filings—Group A and Group B misdemeanors (discussed below)—increased slightly (less than 1 percent) in fiscal year 1995–96 from fiscal year 1994–95.

GROUP A MISDEMEANOR filings (nontraffic misdemeanor violations of the Penal Code and other statutes, except Fish and Game Code violations and intoxication complaints) totaled 518,981 in 1995–96, which was 3 percent less than the 535,050 filings in 1994–95. Group A misdemeanors reflect more serious offenses and are more time-consuming for the courts.

There were 141,692 GROUP B MISDEMEANOR filings (nontraffic misdemeanor violations of local city and county ordinances, Fish and Game Code violations, and intoxication complaints) in 1995–96, which represents a 14 percent increase over the 124,713 filings in this category the prior year.

Civil Cases

The word "civil" comes from the Latin word *civilis,* which means "a citizen." A CIVIL (as contrasted with a CRIMINAL) ACTION is a proceeding in which a party seeks the declaration, enforcement, or protection of a right; the redress or prevention of a wrong; or the punishment of a public offense. While TORTS—which include injuries to a person's body, property, reputation, or privacy—represent a substantial number of civil case filings, disputes involving families and children account for the largest category of the superior courts' civil workload *(see discussion, next page).* These latter cases include divorce, asset distribution, child custody and support, and restraining orders.

Civil matters constitute the bulk of the cases filed in the superior courts. In fiscal year 1995–96, 71 percent of the 1,192,923 cases filed were civil. Of the 7,850,459 cases filed in municipal courts during this period, 12 percent were civil matters.

CIVIL FILINGS UP

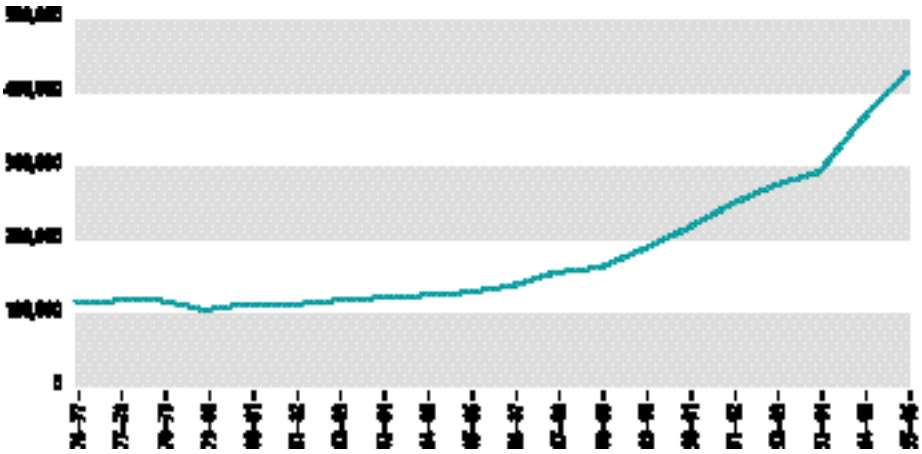
In 1995–96, there were a total of 852,075 civil filings in the superior courts—an 8 percent increase over the 788,173 cases filed in fiscal year 1994–95. Total civil filings include the following types of cases: GENERAL CIVIL, FAMILY LAW, PROBATE AND GUARDIANSHIP, and OTHER CIVIL PETITIONS.

The increase in civil filings in 1995–96 is almost entirely due to a large increase in the category of "other civil petitions." The majority of these petitions involve family-related cases, such as child support and child custody matters, adoptions, and restraining orders *(see discussion, next page).*There were 428,792 filings of "other civil petitions" in 1995–96, an 18 percent increase over the 364,611 filings the prior year. The increases in this category over the past two decades (since 1976–77) is even more dramatic—up 210 percent in the past 10 years and up 269 percent in the past two decades.

Figure 2.7

Filings of Other Civil Petitions

Fiscal Years 1976–77 through 1995–96



Filings in the remaining civil categories in 1995–96 showed only slight changes from the prior year: General civil filings decreased 2 percent (to 200,337), probate and guardianship filings decreased 3 percent (to 53,788), and family law filings (for dissolution or voiding of a marriage or for legal separation) increased 3 percent (to 169,158).

CIVIL JURY TRIALS DIP SLIGHTLY

In 1995–96, civil jury trials in superior court decreased 2 percent from the prior fiscal year. For proper perspective on this slight decrease in civil jury trials, it is helpful to examine the changes in the numbers of civil and criminal jury trials that occurred in the previous year.

In 1994–95, criminal jury trials soared 13 percent from the previous year, which many courts attributed to the 1994 "three strikes" law *(see discussion, beginning on page 24).* That leap in criminal jury trials caused many courts to reassign civil resources to criminal dockets, which may explain the corresponding 13 percent decrease in civil jury trials in 1994–95.

FAMILY-RELATED CASES SKYROCKET

Family-related cases are rising in California and around the nation. The National Center for State Courts reports that in 1995—the most recent year for which data is available—"domestic relations"* and juvenile cases were the largest and fastest-growing segments of filings for state courts nationwide.

Image © 1997 PhotoDisc, Inc.

In California courts, most of the civil filings categorized as "other civil petitions" are cases involving families and children. These filings have been rising continually and dramatically over the past two decades—up 18 percent in 1995–96, up 210 percent in the past 10 years, and up 269 percent in the past 20 years.

Moreover, these cases are representing a larger and larger percentage of the total filings in the superior courts: "other civil petitions" as a percentage of filings totaled 16 percent in 1976–77, 15 percent in 1986–87, 32 percent in 1994–95, and 36 percent in 1995–96.

Disputes involving families: complex and sensitive cases

The family law system is unique because the court presides over the legal alteration of family relationships—with all the attendant physical and emotional upheaval. Moreover, the adversary system itself tends to exacerbate the already-strained relationship of families involved in these disputes. As a result, family-related cases are often difficult and complex, involving sensitive issues. This situation is compounded further because families bringing disputes to the courts for resolution often have numerous problems that involve several different departments within the court at the same time. It is not uncommon for a family to seek the court's help with problems involving divorce, child custody and support, juvenile delinquency or dependency, and, increasingly, domestic violence.

(See "Helping Courts and Families Cope," page 39 for steps being taken to coordinate cases involving families with multiple problems.)

VIOLENCE IN OUR HOMES

While violent crime in the streets has been dropping in recent years *(see page 22)*, violence in the home has not. Domestic violence is a horrifying epidemic in California and throughout the nation.

Family violence cases filed in the state courts continue to grow. According to the National Center for State Courts, domestic violence cases are the fastest-growing segment of the "domestic relations" caseload—these filings increased 99 percent between 1989 and 1995. While some domestic violence cases are filed in criminal court, the vast majority of these matters are civil restraining orders. In California, restraining orders in domestic violence cases are included in the category of "other civil petitions" but not, currently, separated out or otherwise tabulated statewide. Therefore, statewide filing statistics for domestic violence cases are not available.

Domestic violence is notoriously difficult to measure. In California, the only current measures of the growing incidents of family violence are reflected in statewide calls for help, domestic violence arrests, and willful homicides.

Nicole Brown Simpson's murder in June 1994 generated a massive increase in public awareness of domestic violence and has resulted in more calls for help. According to the San Francisco Domestic Violence Consortium, there were over 8,000 calls to domestic violence crisis lines by San Franciscans during the first three months after her murder—a 51 percent increase over such calls made during the same period the previous year.

The results of a recent domestic violence homicide study by the Family Violence Project of

* The National Center for State Courts includes the following cases in its "domestic relations" category: divorce, child support and custody, domestic violence, paternity, and adoption.

Domestic Violence Calls and Arrests

Year	Domestic Violence Calls	Domestic Violence Arrests	Domestic Violence Arrests Per 100 Calls
1993	238,895	50,982	21
1994	251,233	56,919	23
1995	246,315	60,279	24
1996	227,899	59,828	26

the San Francisco District Attorney's Office are alarming: from 1993 through 1996, domestic violence was the leading cause of all solved homicides for women in San Francisco. This conclusion includes preliminary findings for 1995–96, which suggest that 64 percent of all solved female homicide cases in San Francisco were due to domestic violence.

The California Department of Justice (DOJ) reports that the percentage of statewide willful homicides attributed to domestic violence decreased from 6.1 percent in 1994 to 5.1 percent in 1995 and decreased further to 4.5 percent in 1996. The state DOJ also reports that the number of domestic violence homicides statewide fell 42 percent between 1994 (224) and 1996 (130).

According to the California DOJ, from 1993 to 1996, domestic violence calls for assistance—the number of which have fluctuated in recent years—have led to more arrests statewide. It is possible that increased attention to this problem has begun to make a difference.

However, it is important to remember how difficult domestic violence is to measure. In August 1997, the U.S. Justice Department's Bureau of Justice Statistics released a study on domestic violence. Its findings were startling: in 1994, a quarter-million people in the United States were treated for injuries inflicted by an intimate partner. This number of injuries was *four times* higher than the number reported in the department's annual National Crime Victimization Survey—the second largest government survey after the national census.

This new, higher estimate was compiled by examining emergency hospital admissions rather than the more common, but less precise, practice of surveying police records or interviewing victims of violence. While similar data is not available for California (the Justice Department's study did not provide a state-by-state breakdown), the federal study raises concerns that this crime is probably underreported in most states—including our own.

KEEPING FAMILIES SAFE

Domestic violence courts

More and more, courts are recognizing the problem of family violence and taking steps to show their concern for victims' safety. A growing number of courts throughout the state have created specialized departments to handle family violence cases. Many of these courts are developing creative solutions to improve services to victims and their families.

For instance, in the domestic violence court that opened in San Mateo County in March 1997, judges are closely involved with defendants through the entire process—from prosecution through sentencing—and then continue with each case by working with probation officers to help ensure that convicted batterers obtain counseling.

Similarly, the judges in the domestic violence courtrooms in San Diego County's South Bay

Municipal Court and Los Angeles County's Citrus Municipal Court handle every step in domestic violence cases, from arraignment through sentencing, and conduct frequent review hearings to chart defendants' progress. The San Diego District Attorney's Office estimates that the recidivism rate (i.e., rate of relapse of criminal behavior) for domestic violence offenders statewide is between 15 and 20 percent. However, these two courts have enjoyed great success—with record-setting low recidivism rates (3 and 2 percent, respectively) among offenders who complete the batterers' treatment program and other conditions of each court's probation.

Another creative approach to aiding victims in domestic violence cases was recently implemented in Santa Clara County, where the family court has joined forces with the local sheriff's department to serve protective orders free of charge. The Santa Clara sheriff is the first in the state to provide this no-cost service, which allows victims who obtain a protective order through family court to authorize uniformed deputies to serve the legal papers. The goal is to remove some of the obstacles faced by victims: lack of time and money, and, in many cases, intimidation.

Family violence conferences

In 1994, the Judicial Council began holding a series of conferences on family violence and the courts to generate discussion on how to better handle and, ultimately reduce, domestic violence cases. Since that first conference, counties throughout the state have been demonstrating remarkable progress in this effort.

The domestic violence conferences convene county teams composed of judges and prosecutors, as well as representatives from domestic violence groups, probation departments, social workers, police officers, and other family violence professionals. The second conference in January 1996—attended by some 200 people representing 49 of the state's 58 counties—explored specific ways to respond to family violence. At the third conference in January 1997, there were more than 350 representatives from 45 counties, who exchanged ideas on how to address family violence cases more effectively and learned about how the latest efforts could assist them.

Nearly all 58 counties have formed family violence prevention coordinating councils—one of the most important goals of the 1994 inaugural conference—which will lead the court communities in coordinated response to this serious problem. The county councils work primarily with local courts but also cooperate with other agencies and organizations in the county that serve families and children. The fourth family violence conference sponsored by the Judicial Council was held in February 1998 *(see page 71)*.

Family Court Services

In 1997, the Statewide Office of Family Court Services (FCS) has been working to address the growing problem of domestic violence. In response to a 1996 mandate to the Judicial Council, and as part of FCS's development of milestone standards of professional practice, FCS is working on protocols for child custody mediation in cases with allegations of domestic violence *(see item No. 4, page 42)*.

In the Fall of 1997, the FCS position of Special Services Coordinator was created to offer direct aid to family courts in delivering services in cases involving family violence, substance abuse, child abuse, or neglect. FCS is also developing a training curriculum on domestic violence issues for court-connected child custody evaluators across the state.

JUVENILE DEPENDENCY

Courts intervene to protect children

The problem of juvenile dependency—children who become dependents of the courts because of allegations of abuse or neglect by their parents—continues to be a concern for the courts. While in fiscal year 1995–96 there was a slight decrease, 2 percent, in statewide JUVENILE DEPENDENCY FILINGS (to 43,050) from the previous year, these filings have risen an astonishing 195 percent over the past two decades (since 1976–77). Moreover, in some counties, the number of these cases have continued to expand; for example, in Sacramento County, child dependency cases grew 21 percent in 1995–96.

There are a number of reasons for the massive rise in these cases. Although the concept of the "abused child" is relatively new, in recent years there has been a growing recognition in society and in the law that child abuse and neglect cases should be taken seriously. In addition, improved methods of diagnosis have been developed. Moreover, according to the Legislative Analyst's Office, reports to child welfare agencies of suspected child abuse or neglect have risen steadily in recent years. There were a total of 296,000 such reports in 1985; in 1994, there were 664,000. This represents a 124 percent increase over the time period and an average annual rate of increase of close to 10 percent.

Other factors that account for growing cases of juvenile dependency reflect unhealthy changes in society, including increased abuse of alcohol and other drugs among parents, poverty, births to unmarried teenagers, absent fathers, and dysfunction in more and more families.

The courts must intervene in these cases to provide safe environments for the children. The ultimate goal is to achieve a timely and appropriate permanent placement for every child who enters state supervision. Whenever possible, the courts work to keep families together. If this is not possible, courts strive to provide a stable and permanent home for each child.

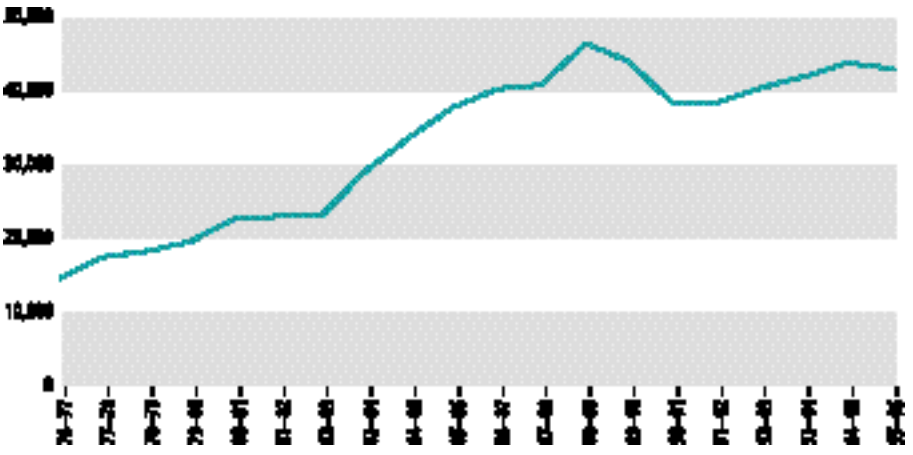
Judges and COMMISSIONERS in urban counties often hear more than 30 dependency cases a day. Dependency hearings typically bring together a large number of parties—parents and their attorneys, Department of Social Services staff and county counsel, children and their attorneys, and Court-Appointed Special Advocates *(see Chapter 4, page 69)*. The judicial officers who hear these cases must make difficult decisions regarding whether children should be removed from their homes because of allegations of neglect, abuse, drug or alcohol use, or family violence. Indeed, cases that involve child abuse and neglect are among the most complex and time-consuming matters for the courts.

The Los Angeles County Superior Court reports a tremendous growth in the number of children under its supervision. As of June 1996, there were 42,232 dependent children in Los Angeles County; as of June 1997, the number had jumped 19 percent to 50,188.

Figure 2.8

Juvenile Dependency Filings

Fiscal Years 1976–77 through 1995–96



There is a rising number of children in the juvenile dependency system who are in foster care in California. According to the Legislative Analyst's Office, foster care caseloads increased roughly 170 percent from 1984 (approximately 33,000) to June 1995 (approximately 90,000). The California Department of Social Services reports that there were 104,097 children in foster care as of June 1, 1997. These cases consume large amounts of judge time; status hearings are required every six months for each child.

Striving for permanency

A dependency case closes when the court is no longer reviewing the case. At that point, the child will have been returned home, adopted, emancipated, or achieved a permanent placement that does not require oversight by the court. Probably the most important measure of success in dependency cases is the time it takes to achieve a permanent placement for children.

President Clinton recognizes adoption as a key theme for the nation. More than 650,000 American children spent all or part of 1997 in government-run foster care. Recently, the President advocated reducing the time a child may spend in foster care and accelerating the adoption process—with permanent plans to be required within 12 months from the child's removal.

In California, Governor Wilson recognizes the critical need both for more adoptions and for expediting the adoption process. According to the California Department of Social Services, during fiscal year 1995–96, only 4,262 children were available for adoption in California; of these, 3,845 children were adopted during the same period. As of June 30, 1997, there were 5,781 children who were legally free for adoption in our state.

During the past several years, the Governor has placed special emphasis upon improving adoption opportunities for children who are unable to return to their parents. To promote the adoption of foster children, numerous legislative changes were made in 1995 and 1996, which focused on terminating parental rights, keeping siblings together, expediting permanency for infants and toddlers under three years of age, and allowing public adoption agencies to purchase services from licensed private adoption agencies.

In 1996, the Governor implemented his Adoption Initiative, a five-year plan that includes significant additional funding for county adoption agencies and for technical assistance and training, as well as statutory changes such as streamlining kinship adoptions, increasing adoption opportunities for older children, and implementing concurrent permanency planning in cases where reunification efforts are unsuccessful. Initiative efforts will also be directed toward reforms needed to promote adoption of minority children.

Delays in juvenile placement

Juveniles in high-risk homes have been forced to remain at risk because of unprecedented delays in bringing these matters to court—in part, a result of unstable trial court funding.

The Judicial Council recently reviewed the final assessment report of the Juvenile Court Improvement Project *(see discussion, next page)*, a comprehensive study of the state's juvenile dependency courts that deals with the courts' most vulnerable population—abused and neglected children. The report found that the needs of California's dependent children are not being addressed by our juvenile courts within legal timelines. The statistics reveal that children are waiting for permanency far longer than permitted by law. Large backlogs of

dependent children wait years for permanency. The report recommends that judges take control of the court process and ensure that these children's cases are heard within the statutory timelines. The report finds that such control will not be possible without increased judicial resources.

Juvenile Court Improvement Project

In 1997, the Judicial Council's Family and Juvenile Law Advisory Committee completed a two-year assessment phase of its Juvenile Court Improvement Project *(see Chapter 4, "Focusing on Family-Related Cases").* The goal of this project is to assess statewide court practices and procedures that relate to children and the state's child welfare and juvenile justice system. A special focus is placed on abused and neglected children who are placed out of the home. The council's objective is to determine how the court system can improve the handling of these sensitive cases.

According to Chief Justice George, the judiciary deals with the effects of child abuse on a daily basis. "The abuse and neglect of children," the Chief Justice has stated, "affects our entire court system and our communities." The Chief Justice believes that judges have a duty to ensure that the courts provide the protection, DUE PROCESS, and supervision of children and families demanded by the law.

Toward that end, and to give the Juvenile Court Improvement Project a boost, the Chief Justice invited the presiding judges of all the superior and consolidated courts in the state to attend the December 1997 "Beyond the Bench" conference in San Francisco *(see Chapter 4, page 68).* Within their local jurisdictions, judges formed teams made up of judges, court administrators, child welfare professionals, and community leaders to attend the conference, which focused on improving California's juvenile dependency courts.

JUVENILE DELINQUENCY CASES RISE

According to the California Department of Justice, the juvenile arrest rate decreased slightly (by about 3 percent) between 1995 and 1996. However, juvenile delinquency filings—both nationally and in California—have continued to increase in recent years.

The National Center for State Courts reports that between 1984 and 1995 (the most recent year for which data is available) juvenile filings nationwide have increased dramatically. Total juvenile filings increased 55 percent; 65 percent of these juvenile cases involved a delinquent act; and the fastest areas of growth in juvenile cases were in "crimes against the person" and drug crimes.

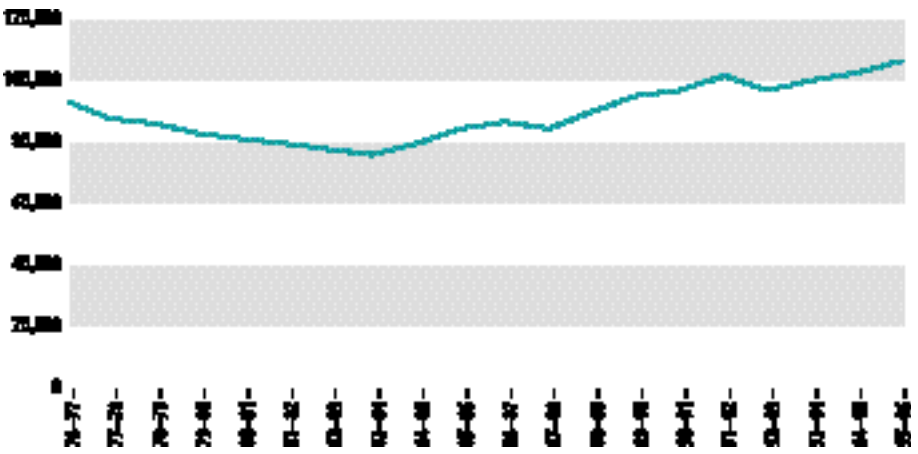
In California, juvenile delinquency cases are continuing their decade-long climb. In 1995–96, JUVENILE DELINQUENCY FILINGS rose an additional 4 percent from the prior year to 106,484 cases. These filings have increased 23 percent since fiscal year 1986–87.

Cases involving juvenile crime (especially serious crimes such as murder, rape, and burglary)

Figure 2.9

Juvenile Delinquency Filings

Fiscal Years 1976–77 through 1995–96



constitute an area of court workload that tends to ebb and flow with the changing population of adolescents.

According to the results of a research study of high-risk youth in Orange County, it seems that children are growing up fast and that too many are growing up troubled. This study of the 12-year period from 1985 to 1997 established the following profile of the most dangerous youths: most are ages 13 or 14, are from dysfunctional or abusive families, have active drug or alcohol problems, are doing poorly in school, and associate with similarly troubled youths.

According to the Blue Ribbon Commission on Juvenile Crime, the future does not bode well. The commission reports that from 1995 to 2005, the California youth population will increase 36 percent; so that by 2005, there will be 1.3 million additional youths between the ages of 10 and 17 in California. Consequently, juvenile filings are forecast to jump even higher over the next decade. Additionally, the steady increase in juvenile delinquency filings may be a portent of a rise in the adult crime rate as well as in filings under the "three strikes" law *(see page 24)*.

Courts have dual responsibility: protect public, rehabilitate minors

In delinquency cases the courts have a dual responsibility to protect the public and to help rehabilitate the minors. Children under age 18 who are alleged to have committed criminal acts are supervised by the court. Statewide statistics on the number of children who are wards of the court system under formal or informal supervision are not currently collected. However, by way of example, in Los Angeles County there were 42,232 child wards under the court's supervision as of June 1996; as of June 1997, there were 50,188 such children—a 19 percent increase.

Once the juvenile court has jurisdiction over a minor, its jurisdiction may be extended until the youth turns 21 and, in some cases, until age 23. Depending on the seriousness of the crime, the court may order that the juvenile be placed in a secure institution for juvenile offenders, be placed on probation, perform community service, or pay a fine. The court may also order the youth to be sent to a halfway home or to participate in another such program.

The Judicial Council's Family and Juvenile Law Advisory Committee is exploring access to possible alternative dispositions of delinquency cases. The council is interested in developing ways to handle these cases that provide appropriate care, treatment, and guidance consistent with holding youngsters accountable for their behavior and protecting the public.

Helping Courts and Families Cope

A number of steps are being taken to assist parties involved in family-related cases and to improve access for family and juvenile court users.

CHILD SUPPORT COMMISSIONER AND FAMILY LAW FACILITATOR PROGRAM (ASSEM. BILL 1058)

Families involved in child support disputes are receiving much-needed assistance as the result of recent legislation. The federal Title IV-D program provides funding to the states to improve the collection of child support in cases that involve the district attorney in child support actions. To further the goals of this program, the California Legislature passed Assembly Bill 1058 (Speier) (Stats. 1996, ch. 957), which was signed by the Governor in September 1996.

This new law provides an expedited process in the courts that is accessible and cost-effective to families involved in child support cases. In addition, assistance is provided to these families with other critical issues concerning their children, such as health insurance and spousal support. Referrals are also provided by other agencies as necessary, including referrals to the Statewide Office of Family Court Services (FCS) for mediation of custody and visitation disputes *(see page 41)* or to programs for victims of domestic violence.

AB 1058 established the Child Support Commissioner and Family Law Facilitator program, a major effort by California to provide guidance to families involved in child support cases being enforced by the district attorney. Under this program, child support commissioners are to be hired in each county to hear Title IV-D child support matters—actions in which the district attorney helps to establish, modify, or enforce a child support order.

AB 1058 also requires the superior court in each of California's 58 counties to maintain an Office of the Family Law Facilitator. This office is established to provide education, information, and assistance to parents with child support issues. Each superior court will appoint an attorney with mediation or litigation experience in family law as a Family Law Facilitator.

The primary duties of the facilitator are to distribute court forms and voluntary declarations of paternity; provide educational materials to parents; assist with completion of forms; prepare support schedules based on statutory guidelines; and offer referrals to the district attorney, FCS, and other community agencies. Individual courts may create additional duties for the facilitator as the need arises.

PRO PER CENTERS: HELP FOR SELF-REPRESENTED LITIGANTS

Improving access to the courts and improving proceedings that affect families are among the Judicial Council's primary goals—as reflected in the council's long-range strategic plan *(see Chapter 4)*. For the 1997–98 fiscal year, the council has identified improving access for self-represented (pro per) litigants *(see sidebar, next page)* as a high priority. One of the initiatives promoted by the Judicial Council is the Pro Per Center Pilot Program.

In June 1997, the Judicial Council's Administrative Office of the Courts contracted with trial courts in five counties to develop pilot programs in fiscal year 1997–98 to establish or enhance pro per centers in their counties. The following five counties are involved in this program: Alameda, Sacramento, San Diego, Santa Clara, and Ventura.

The contracts provide each of these five counties with $25,000 in one-year seed grants to develop materials that will assist other courts throughout the state to implement similar programs. The variety of models proposed by the courts in these counties will serve to test different approaches to improving court access, with the cooperation of volunteer

attorneys, for family law litigants who cannot afford private representation.

In each of the five counties, planning is under way to coordinate the use of the grant funds with the implementation of AB 1058, which establishes the Child Support Commissioner and Family Law Facilitator Program *(see discussion, previous page)*.

Self-Represented (Pro Per) Litigants

California courts, like others nationwide, have seen an increasing number of self-represented (or "pro per") litigants, especially in family law matters. Indeed, family law judges estimate that the percentage of family law cases in which one adult is without a lawyer may be as high as 60 percent. Moreover, according to these estimates, in another 30 percent of cases neither side has a lawyer, and in only 10 percent of such cases are both sides represented by counsel.

The dramatic increase in pro per litigants presents a serious challenge to family courts' ability to provide fair and efficient service to the public. More and more clients are entering the system without a basic understanding of how it works. Most of these litigants do not know how to fill out legal forms or what their basic rights are under California law. Not surprisingly, pro per litigants are at a disadvantage in court. Moreover, this situation exacerbates family tensions, exposes children to unnecessarily protracted conflict, and strains the court system's capacity to bring forward evidence about children and financial circumstances that could result in just and effective resolution of all types of family conflicts.

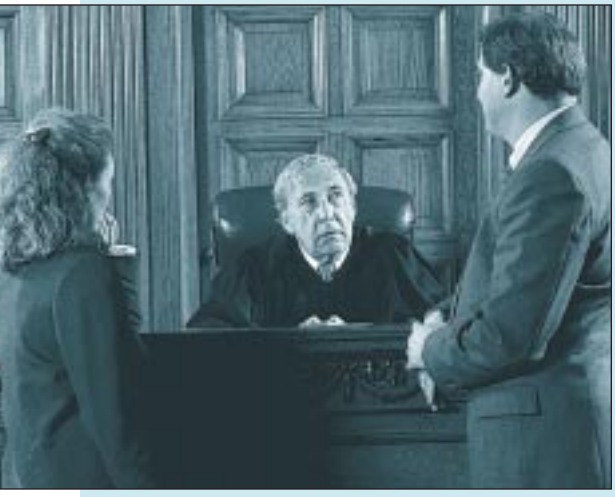


Image © 1997 PhotoDisc, Inc.

Pro per litigants consume a significant amount of court and judicial resources. Recent estimates reflect that courts receive as many as 2,000 to 5,000 calls each month from self-represented litigants requesting instruction and procedural information. Because of these litigants' unfamiliarity with the system, each request can take up to 30 minutes per party. Many pro per litigants file documents that are incomplete or inaccurate, or that do not conform to local rules, requirements, or standards. As a result of such improper filings, staff time and judicial resources have been unnecessarily consumed and hearings delayed.

For the 1997–98 fiscal year, the Judicial Council has identified improving access for pro per litigants as a high priority. One of the initiatives promoted by the council is the Pro Per Center Pilot Program *(see discussion, previous page)*.

COORDINATING CASES INVOLVING MULTIPLE FAMILY PROBLEMS

Families bringing disputes to the courts often have numerous problems that involve several different departments within the court at the same time. For example, it is not uncommon for a family to seek the court's help with problems involving divorce, child custody and support, juvenile delinquency or dependency, and, increasingly, domestic violence.

To improve coordination within the court system and address the access needs of family and juvenile court users, the Judicial Council's Family and Juvenile Law Advisory Committee established a special Family and Juvenile Resource Allocation Study to identify best practices in resource allocation in family, juvenile, and probate courts, and to recommend a guide for implementing resource allocation in courts throughout the state during the 1998–99 fiscal year. This is part of the Judicial Council's long-range strategic plan *(see Chapter 4)* adopted in May 1997.

For additional information on Judicial Council programs and services established to help families and children, see Chapter 4: "Focusing on Family-Related Cases."

Families in Child Custody Mediation: Family Court Services

Mediation of custody and visitation disputes has been mandatory in California since 1981. Since then, parents who cannot agree on arrangements for child custody or visitation on their own must attempt to form a parenting plan in court-based mediation before they can obtain a court hearing. Under this mandate, the superior courts are required to provide mediation services to families involved in these disputes. The paramount goal of mediation is to develop an agreement between the parties that is in the best interest of the children.

The Statewide Office of Family Court Services (FCS) assists in the coordination of child custody mediation and a broad array of other family court services in courts throughout California. FCS provides services to superior courts in the following six areas: (1) implementation of mandatory mediation and other family law programs; (2) support to programs offering special services in cases involving violence, substance abuse, child abuse or neglect; (3) evaluation of court-based mediation programs; (4) uniform statistical reporting in mediation and other family court service matters; (5) continuing education and training of court counselors, mediators, evaluators, arbitrators/special masters, and other family court service personnel; and (6) administration of grants for research and court programs.

CHALLENGES

FCS is struggling in the face of a number of challenges: rising caseloads, including complex and recurrent cases as well as the demand for a broader range of services *(see Chapter 4, page 71);* new types of cases that reflect changes in society, including the growing sector of never-married parents; more self-represented (pro per) litigants *(see sidebar, previous page);* dysfunctional families; safety concerns because of the potential lethality of clients who may be angry, frustrated, and/or dissatisfied with the justice system—compounding the physical and emotional upheaval associated with altering family relationships *(see "Courtroom Security at Risk" in the Special Trial Court Funding Report);* as well as the high rate of turnover in FCS leadership (by August 1997, 17 of the 58 FCS directors across the state had left their positions during the preceding 18 months—a rate of one vacancy per month).

FOCUS ON STANDARDS

The overall purpose of standards of practice is to define expectations for participants and provide guidelines for professionals. The 1981 state law mandating mediation in child custody and visitation disputes set forth standards for providers of this service. Subsequent laws have set forth conditions in which mediators are required to meet separately and at separate times with the parties in cases involving a history of domestic violence or in which a protective order is in effect.

In late 1988, the Judicial Council was mandated by the California Legislature to adopt additional uniform standards of practice governing court-connected mediations of child custody and visitation disputes by January 1991. Through the council's Administrative Office of the Courts, FCS was then directed to implement the new legislation. Since that time, FCS has been involved in the process of standards development, emphasizing broad collaboration and multiple reviews.

FCS is focusing on the following four milestone standards of professional practice:

1. Updated Uniform Standards of Practice for Court-Connected Child Custody Mediation define expectations for participants and provide a means of assessing the performance of the mediator and evaluating the service.

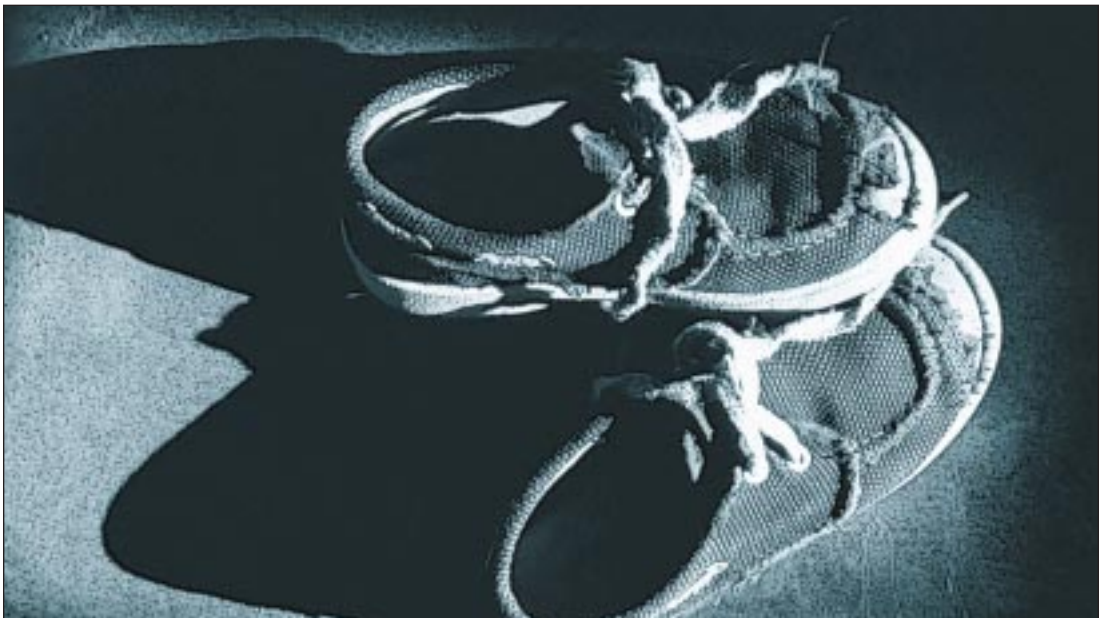
2. Standards of Practice for Providers of Supervised Visitation define the legal responsibilities and obligations for supervised visitation providers who monitor visitation under a wide range of circumstances, including domestic violence, child abuse, substance abuse, or other special circumstances. (These standards were adopted, effective January 1, 1998, as California Standards of Judicial Administration by the Judicial Council at its November 1997 meeting.)

3. Uniform Standards of Practice for Court-Appointed Child Custody Evaluations define expectations, performance standards, and accountability for all public and private child custody evaluators who conduct court-ordered child custody evaluations under relevant sections of the Family and Evidence Codes. (These standards will go before the Judicial Council for adoption as California Rules of Courts later in 1998. If adopted by the council, these standards will go into effect January 1, 1999.)

4. Protocols for Child Custody Mediation in Cases with Allegations of Domestic Violence are designed to assist the court, agencies, and the community in improving methods and procedures to prevent and reduce family violence.

Effect of trial court funding

Many of the challenges faced by family courts reflect the impact of resource scarcity. The historic trial court funding restructuring legislation *(see Special Trial Court Funding Report)* provides statewide criteria for determining the resources necessary to provide the caliber of services defined in the mediation standards discussed above.



Reducing Delay in Case Processing

The quality of justice is compromised if cases do not get to trial until three or four years after they were filed. In 1986, the state Trial Court Delay Reduction Act was passed (and reenacted in 1990). Mandatory delay reduction programs have been operating statewide in all trial courts since July 1992, when the Trial Court Realignment and Efficiency Act of 1991 added municipal courts to the program. The delay reduction law makes judges, rather than attorneys, responsible for case management from the time of filing. Judicial responsibility for guiding cases through the system includes imposing time limits and enforcing deadlines.

Under the Trial Court Delay Reduction Act, the Judicial Council adopted case-processing time standards for superior and municipal court cases (from filing to DISPOSITION) against which progress in reducing delays can be measured. Calendar control methods have been applied to both criminal and civil caseloads.

Under the state Constitution, criminal cases have priority over civil cases. Therefore, a compounding factor has been pressure from "three strikes" cases *(see page 24)*, which have threatened to compromise the success of the state's civil delay reduction program. Increased judicial resources have been necessary to process felony strike cases, threatening to push civil cases back and create greater backlogs.

SUPERIOR COURTS

Civil cases

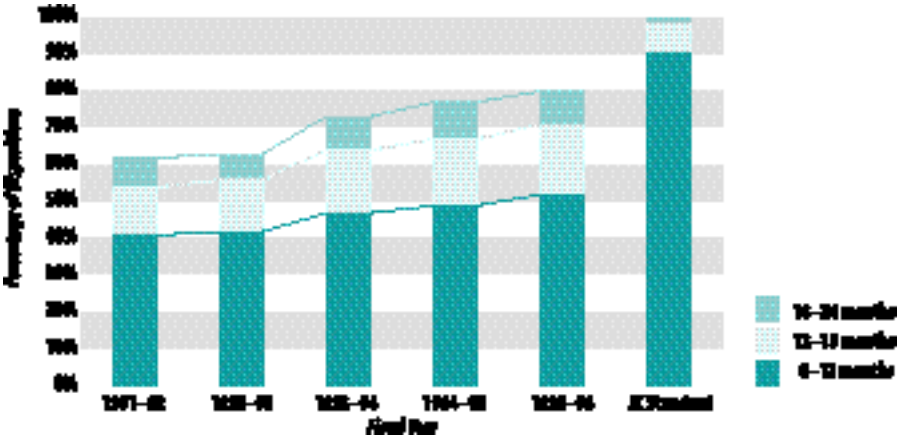
The following time standards for case disposition (from filing) for general civil cases in superior courts have been set by the Judicial Council: within 12 months after filing, dispose of 90 percent of cases; within 18 months, dispose of 98 percent; and within 24 months, dispose of 100 percent.

Despite concerns about resources diverted to handle criminal three-strike cases, superior courts continue to improve case-processing time in civil cases. Data is available for general civil case-processing time in the superior courts for the last five fiscal years. The chart on this page illustrates the steady and continued progress in superior court civil case-processing time.

The percentages of general civil cases disposed of in less than 12, 18, and 24 months improved in each fiscal year. In 1991–92, only 62 percent of civil filings in superior courts were disposed of in 24 months or less from the filing date. In 1992–93, the figure was 63 percent. In 1993–94, superior courts reported that 73 percent of civil filings were disposed of in 24 months or less; in 1994–95, 77 percent; and in 1995–96, the figure climbed to 80 percent. While there is still a way to go before meeting the standards adopted by the Judicial Council, the superior courts should be commended for their hard work and commitment to the delay reduction goals.

Figure 2.10

Superior Court General Civil Case-Processing Time



Criminal cases

In superior court, except for death penalty cases, felony cases have a one-year standard for disposal—from first appearance to disposition. In the 1993–94 fiscal year, 94 percent of criminal cases in superior courts were disposed of in one year or less; in 1994–95 and 1995–96, 95 percent were disposed of within this time frame.

MUNICIPAL COURTS

Civil cases

The same time standards for case disposition from filing for general civil cases in superior courts were set for municipal courts; that is, within 12 months after filing, dispose of 90 percent of cases; within 18 months, dispose of 98 percent; and within 24 months, dispose of 100 percent.

General civil case-processing time in municipal courts has worsened slightly over the past few years. In 1992–93, 81 percent of general civil cases were processed in one year or less; in 1993–94, 79 percent; in 1994–95, 78 percent; and in 1995–96, 78 percent. This downward cycle began before the 1994 enactment of the "three strikes" law; however, the effects of that law on the courts' workload and resources has probably compromised the delay reduction program and contributed to the longer case-processing time reported for 1994 and the years that followed.

In municipal court, the standards for processing unlawful detainer cases are: within 30 days after filing, dispose of 90 percent of cases; within 45 days after filing, dispose of 100 percent of the cases. In 1993–94, 78 percent of unlawful detainers were disposed of in 45 days or less; in 1994–95, 75 percent; and in 1995–96, 72 percent.

Case-processing standards for in-county small claims cases in municipal court provide that 90 percent of these cases should be disposed of within 70 days after filing, and that 100 percent of cases should be disposed of within 90 days after filing. In 1994–95, 85 percent of in-county small claims cases were disposed of in 90 days or less; in 1995–96, 87 percent.

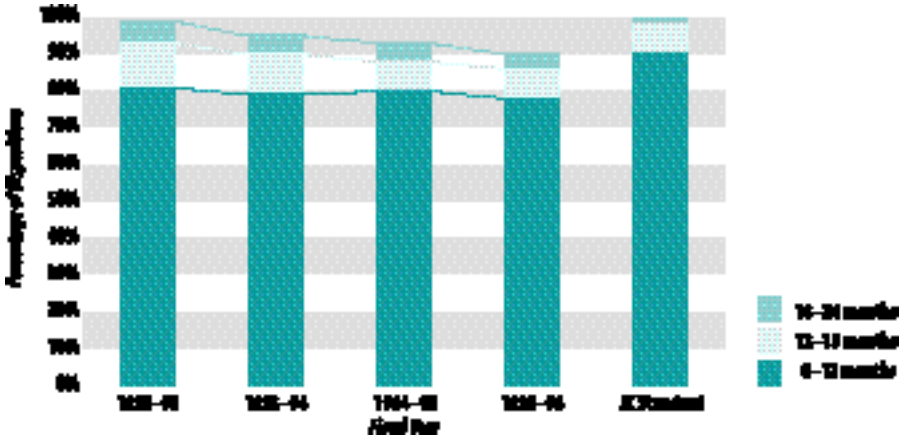
Criminal cases

Case-processing standards for felony preliminary examinations in municipal court are as follows: 90 percent of these exams should be disposed of within 30 days after a defendant's first court appearance, 98 percent within 45 days after the defendant's first appearance, and 100 percent within 90 days of the first appearance. In 1993–94, 91 percent of felony preliminary examinations were disposed of in 90 days or less; in 1994–95, 90 percent; and in 1995–96, 88 percent.

The case-processing standards for misdemeanor cases in municipal court are as follows: 90 percent of these cases must be disposed of within 30 days after a defendant's first court appearance, 98 percent within 90 days after the defendant's first appearance, and 100 percent within 120 days of the first appearance. In 1993–94, 94 percent of misdemeanor cases were disposed of in 120 days or less; in both 1994–95 and 1995–96, the figure was 93 percent.

Figure 2.11

Municipal Court General Civil Case-Processing Time



General Civil Case-Processing Time

	Superior Court			Municipal Court*		
Year	Less than 12 months	Less than 18 months	Less than 24 months	Less than 12 months	Less than 18 months	Less than 24 months
1991–92	41%	54%	62%	[Data tabulation began 1992–93.]		
1992–93	42%	56%	63%	81%	93%	99%
1993–94	47%	64%	73%	79%	90%	95%
1994–95	49%	67%	77%	80%	88%	93%
1995–96	52%	71%	80%	78%	86%	90%
JC Standard	90%	98%	100%	90%	98%	100%

**Municipal court percentages are based on cases filed after January 1, 1991.*

BETTER RESULTS EXPECTED

Better results from delay reduction programs for all trial courts are anticipated for fiscal year 1997–98 and beyond. Under an existing statute, civil cases must be brought to trial within five years after filing, and courts shall dismiss those cases that have not met this requirement. Many courts decided to manage only the new civil cases that were filed after July 1992 according to delay reduction standards. July 1997 was the five-year anniversary since delay reduction was mandated for all California trial courts. The old cases that were not managed under the delay reduction program should have been eliminated from the court system by July 1997, leaving only those cases that have been managed from the day that they were filed.

The Lockyer-Isenberg Trial Court Funding Act of 1997 *(see Special Trial Court Funding Report)*, establishes the Civil Delay Reduction Program. This is a team of retired judges assigned by Chief Justice George to assist courts in reducing or eliminating delay in civil cases. These relief judges will help counties meet their time lines in accordance with delay reduction standards. The Civil Delay Reduction Program will probably work along similar lines as the Three Strikes Relief Team program *(see page 24)*; the primary difference between the programs is that unlike the three-strikes team, no additional funding is provided for the civil delay reduction team, which will function and be funded as part of the Assigned Judges Program.

In May 1997, the Judicial Council adopted its long-range strategic plan for the courts *(see Chapter 4)*. As part of its goal to promote the quality of justice and service to the public, the council is committed to reducing delay in case processing.

Trial Court Coordination

Trial court coordination refers to the sharing of resources among superior and municipal courts within a county or region of a county. Trial courts work together and share judges and commissioners as well as support staff, courtrooms, supplies, and equipment. Such coordination helps reduce court costs and improves efficiency, which ultimately produces better public service.

"Coordination eliminates redundant case processing. It reduces costs for courts, litigants, and taxpayers alike. Coordination enables courts to best use all resources, helping them to better weather budget cuts and affording greater flexibility."
—Chief Justice Ronald M. George

Coordination of the administrative and judicial functions of the trial courts in California has been a statewide issue for nearly 30 years. The Legislature has routinely enacted measures to consolidate and coordinate court functions, and the judiciary has demonstrated an ongoing commitment to the development and implementation of coordination measures.

The Trial Court Realignment and Efficiency Act of 1991, endorsed by the Judicial Council, contained specific coordination provisions designed to reduce the long-term costs of trial court operations, improve the uniformity of judicial services throughout the state, and increase public access to the courts. This law requires each trial court to develop a coordination plan to achieve efficiencies through the maximum use of court resources. Along with the Judicial Council's adoption of extensive rules and standards, this law has provided impetus for the coordination of trial court resources throughout the state.

As Chief Justice George has noted, the benefits of trial court coordination are clear: "Coordination eliminates redundant case processing. It reduces costs for courts, litigants, and taxpayers alike. Coordination enables courts to best use all resources, helping them to better weather budget cuts and affording greater flexibility."

MILESTONES REACHED

By November 1996, trial courts in all 58 counties had a coordination plan approved by the Judicial Council for fiscal years 1995–96 through 1996–97. In addition, all counties currently have a countywide, coordinated technology implementation plan that will enable trial courts to make planned, well-reasoned decisions about technology *(see Chapter 4, page 77)*. The coordination plans for fiscal years 1997–98 through 1998–99 were due to the Judicial Council by July 1, 1997. By September 1997 all plans had been received, and by February 1998 56 of the 58 counties statewide had approved coordination plans.

PROGRESS

The trial courts have made steady and, in some cases, outstanding progress in their coordination efforts. A number of counties are already enjoying the benefits of fully coordinated administrative and judicial resources in their superior and municipal courts. Additionally, over three dozen counties have enhanced their judicial and administrative coordination through using a single presiding judge and/or a single court executive.

Of the 58 counties in California, 13 have more than one municipal court. Achieving complete coordination is difficult for these multiple-court jurisdictions. While significant strides have been made by California's trial courts, coordination is a far-reaching program that requires substantial time and effort before full implementation is reached.

IMPLEMENTATION REVIEW AND INCENTIVES

The Judicial Council's current focus in this area involves completion of a statewide review of trial court coordination implementation progress; review and approval of the new coordination plans for fiscal years 1997–98 through 1998–99; and creation of coordination-related incentives.

Established in 1993, the Trial Court Coordination Advisory Committee assists the council in evaluating the coordination efforts of the trial courts. In November 1996, the Judicial Council approved an initial coordination implementation review process designed by the committee. The council recently adopted a revised reporting method. The process of assessing trial court coordination progress for courts with an approved coordination plan will be finalized by the council in the Spring of 1998. This four-step data-collection process consists of an intensive review of documents, implementation workshops, self-assessment evaluation, and on-site team site visits/teleconferences. This review process examines each trial court system's entire coordination progress—both administratively and judicially. It is anticipated that a comprehensive review of each trial court system's coordination implementation status will be conducted twice a year.

While legislation, rules, and standards have imposed specific coordination mandates, some counties have not complied with all of these requirements. The Trial Court Coordination Advisory Committee is working with other Judicial Council advisory committees to identify possible incentives to encourage coordination. The outcome of this review process will be an integral and ongoing part of the trial court coordination incentive program.

A preliminary report, prepared by the coordination advisory committee in August 1997, included a trial court coordination progress review procedure and also presented coordination-related incentive proposals related to trial court funding, new judgeships, and the assignment of judges. The final report was presented for approval at the Judicial Council's February 1998 meeting.

The Trial Court Coordination Advisory Committee will continue to support a strong link between trial court coordination, trial court funding, new judgeships, and the assignment of judges.

LOOKING AHEAD: SCA 4 AND TRIAL COURT FUNDING

Senate Constitutional Amendment 4 (SCA 4), passed by the Legislature in 1996, authorizes voluntary unification of the trial courts in any county to create a unified superior court upon an affirmative vote by a majority of its superior and municipal court judges. The Legislature's approval of SCA 4 allows trial court unification to be placed before the voters on the statewide election ballot in June 1998.

The trial court funding restructuring legislation enacted in September 1997 will have a positive impact on trial court coordination efforts. A direct effect will be the set-aside of specific funds for trial court coordination-related incentives. As an indirect effect, state funding may assist the trial courts in implementing programs that will promote coordination. ■